

# City of Detroit

## CITY COUNCIL

IRVIN CORLEY, JR.  
DIRECTOR  
(313) 224-1076

FISCAL ANALYSIS DIVISION  
Coleman A. Young Municipal Center  
2 Woodward Avenue, Suite 218  
Detroit, Michigan 48226  
FAX: (313) 224-2783  
E-Mail: [irvin@cnci.ci.detroit.mi.us](mailto:irvin@cnci.ci.detroit.mi.us)

ANNE MARIE LANGAN  
DEPUTY DIRECTOR  
(313) 224-1078

TO: COUNCIL MEMBERS

FROM: Irvin Corley, Jr., Director

DATE: April 28, 2009

RE: Finance Department Budget Amendment for Lewis & Munday PC  
Contract amendment (**Recommend Approval**) *Line item 1,*  
*Today's New Business Agenda-related to line item 6*

Contract CPO No. 2784972 to provide legal services as it relates to Swap/Counter Party negotiations; contract increase \$850,000, not to exceed \$1,100,000 (**Recommend Approval**) *Line item 6,*  
*Today's New Business Agenda)*

The budget amendment referenced above (Attachment I) uses \$1.1 million from proceeds of the 2003 fiscal stabilization bonds to establish an appropriation in Finance to pay for a Lewis & Munday contract (CPO 2784972) to provide legal services for Swap/Counter Party negotiations.

Also before your Honorable Body is an amendment to the Lewis & Munday contract referenced above that is presented by the Finance Department to increase the original contract amount of \$250,000 by \$850,000 to reach a not to exceed amount of \$1,100,000. Attachment II represents the executed contract amendment and Attachment III represents the Scope of Services, which has not changed.

The increase in the contract pays for the extensive and tedious work over the last two and a half months provided by Lewis & Munday and subcontractor, the Orrick, Herrington & Sutcliffe LLP (Orrick) law firm in assisting Joseph Harris, Chief Financial Officer, to negotiate a restructuring of an interest rate Swap early termination payment requirement.

Almost a year ago, the insurers of the interest rate Swap agreements associated with the City's 2006 Pension Obligation Certificates (POCs) were downgraded by rating agencies due to the subprime markets. When the POCs were downgraded by rating agencies in January 2009, early termination payment notices were triggered by the Counter Parties (UBS, SBS Financial and Merrill

Lynch) to the interest rate Swap agreements, causing the City to face an early termination payment of up to \$400 million at that point in time.

However, it appears the City is now only required to pay approximately \$20 million to the Counter Parties over the remaining life of the POCs, or 25 years based on negotiations. Lewis & Munday/Orrick strongly represented the City in these negotiations, which appears to keep the City of Detroit from becoming insolvent.

Obviously, the City's investment of \$1.1 million in the Lewis & Munday/Orrick contract is extremely worth it.

Council should note that the contract amendment is anticipated to cover the remaining costs of negotiations with the Counter Parties. This includes negotiations associated with the completion of an ordinance codifying the agreement between the City and the Counter Parties that will be presented to your Honorable Body within a month.

Council should also note that the contract amount as it relates to Lewis & Munday and Orrick is 50 percent (i.e., \$550,000 to each firm). We also understand that Orrick has reduced its fees by 35 percent to remain within the confines of the City's limited budgetary funds.

We recommend approval of the Lewis & Munday/Orrick contract amendment and the budget amendment that appropriates the funds to cover the contract amendment.

#### Attachments

cc: Council Divisions  
Auditor General's Office  
Saul Green, Deputy Mayor  
Joseph Harris, Chief Financial Officer  
Pamela Scales, Budget Director  
Arese Robinson, Mayor's Office

ICJ:\ICORLEY\Budget and Contract Amendment Lewis & Munday.doc

April 22, 2009

Honorable City Council:

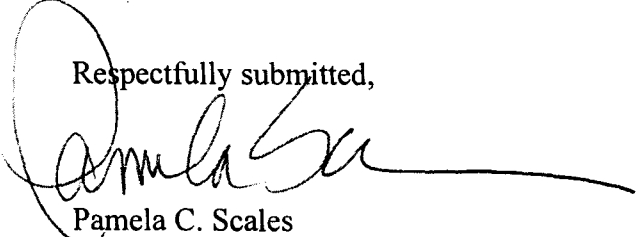
RE: AMENDMENT TO FY 2008-09 FINANCE DEPARTMENT BUDGET

The City needs to pay for a professional services contract to provide legal services in connection with swap restructuring. Currently, before this Honorable Body is a contract with Lewis & Munday PC (CPO 2784972) to provide legal services. Revenues realized from the proceeds of the sale of the Fiscal Stabilization Bonds have been identified and are available for this purpose.

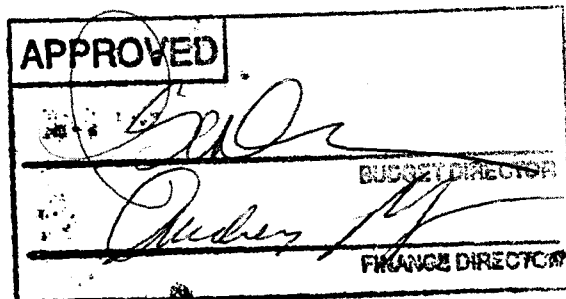
The attached resolution authorizes the increase of the FY 2008-09 appropriations in the amount of \$1,100,000 for the purpose of funding CPO 2784972-Lewis & Munday PC.

A waiver of reconsideration is requested.

Respectfully submitted,

  
Pamela C. Scales  
Budget Director

cc: Arese Robinson, Liaison Mayor's Office  
Joseph L. Harris, CFO/Finance Director



**BY COUNCILMEMBER:** \_\_\_\_\_

**RESOLVED**, that the FY 2008-09 Budget of the City of Detroit be and is hereby amended as follows:

Increase Revenue Object No. 474100 Appropriation No. 00058 Finance Administration  
by \$1,100,000

Increase Appropriation No. 00058 Finance Administration \$1,100,000

**AND BE IT FURTHER RESOLVED;** that the Finance Director be and is hereby authorized to increase the necessary accounts and honor vouchers in accordance with the foregoing communication and regulations of the City of Detroit.



CITY OF DETROIT  
FINANCE DEPARTMENT  
PURCHASING DIVISION

COLEMAN A. YOUNG  
MUNICIPAL CENTER  
2 WOODWARD AVENUE, SUITE 1008  
DETROIT, MICHIGAN 48226  
PHONE 313•224•4600  
FAX 313•224•4374  
WWW.DETROITMI.GOV

April 24, 2009

HONORABLE CITY COUNCIL:

**FINANCE**

CPO #2784972      100% City Funding – To provide Professional Legal Services as it relates to the Swap/Counter Party Negotiations – Lewis & Munday, P.C., 660 Woodward Ave., Ste., 2490, Detroit, MI 48226 – Contract Period: January 12, 2009 until completion – Contract Increase: \$850,000.00 – Contract Amount Not to Exceed: \$1,100,000.00

The Purchasing Division of the Finance Department recommends contracts as outlined above.

The approval of your Honorable Body and a waiver of reconsideration are requested.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Medina Noor".

Medina Noor, Esq., Director  
Purchasing Division

MN/rj  
cc: Arese Robinson

BY COUNCIL MEMBER: \_\_\_\_\_

RESOLVED, that CPO #2784972 referred to in the foregoing communication dated April 24, 2009, be hereby and is approved.

# Attachment II

## PROFESSIONAL SERVICE LEASE TRANSMITTAL RECORD

### Insurance Requirement

ACCOUNTS PAYABLE WILL HOLD UP ALL CONTRACT PAYMENTS UNTIL ALL INSURANCE CERTIFICATES/POLICIES REQUIRED UNDER THE CONTRACT HAVE BEEN RECEIVED. CONTRACTORS SHOULD BE MADE AWARE OF THIS REQUIREMENT.

CHANGE ORDER # 1

STANDARD PO NUMBER 2784973

CONTRACT PO NUMBER 2784972

TYPE OF CONTRACT: (Check One)

☐ CONSTRUCTION/DEMOLITION ☐ LEASE ☐ DEED  
☒ PROFESSIONAL SERVICES

DEPARTMENT HEAD'S SIGNATURE



DEPARTMENT  
LAW

FUNDING SOURCE (Percent)

FEDERAL % STATE % CITY % OTHER %

DEPARTMENT CONTACT PERSON  
JAMES WOLBRINK

PHONE NO.  
237-5034

CONTRACTOR'S NAME: LEWIS & MUNDAY, P.C.

DATE PREPARED  
04/24/09

CONTRACTOR'S ADDRESS:  
660 WOODWARD AVENUE #2490  
DETROIT, MI 48226

ENGINEER'S ESTIMATE ☐ CONTRACT ☐ CHANGE  
TOTAL CONTRACT AMOUNT \$1,100,000.00  
TOTAL CPO AMOUNT \$1,100,000.00  
CHANGE AMOUNT \$850,000.00

PHONE NO. (313) 961-2550

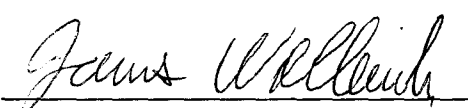
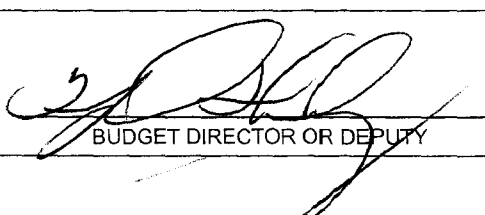
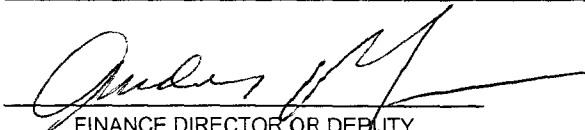
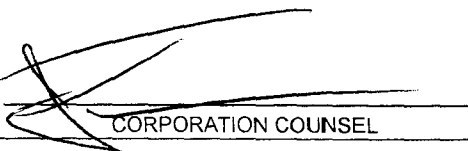
CORPORATION ☐ PARTNERSHIP ☐ INDIVIDUAL

FEDERAL EMPLOYER/SOCIAL SECURITY NUMBER: 38-1991289

MINORITY FIRM ☐ YES ☒ NO

PURPOSE OF CONTRACT: LEGAL SERVICES/STANDARD & POOR'S DOWNGRADE

CHARGE ACCOUNT: 1000-230010-000074-617900-00058-000000-00000

TIME & DATE IN	APPROVER MUST ALSO MAKE APPROPRIATE NOTES IN ORACLE PURCHASE ORDER	TIME & DATE OUT
	<b>REQUESTING DEPARTMENT</b>   AUTHORIZED DEPARTMENT REPRESENTATIVE	
7-09 12:00 7-09 P12:00	<b>BUDGET</b> <input checked="" type="checkbox"/> RECOMMEND APPROVAL <input type="checkbox"/> RECOMMEND DENIAL   BUDGET DIRECTOR OR DEPUTY	<b>APR 27</b>
	<b>GRANT MANAGEMENT SECTION</b> <input type="checkbox"/> RECOMMEND APPROVAL <input type="checkbox"/> RECOMMEND DENIAL  _____ GRANT ACCOUNTANT	
	<b>FINANCE DEPARTMENT</b> <input type="checkbox"/> RECOMMEND APPROVAL <input type="checkbox"/> RECOMMEND DENIAL   FINANCE DIRECTOR OR DEPUTY	
	<b>LAW DEPARTMENT</b> <input checked="" type="checkbox"/> RECOMMEND APPROVAL <input type="checkbox"/> RECOMMEND DENIAL   CORPORATION COUNSEL	
	<b>PURCHASING DIVISION</b>  _____ PURCHASING DIRECTOR	
CITY COUNCIL APPROVAL JCC REFERENCE: PAGE _____ DATE _____		

**CITY OF DETROIT  
AMENDMENT AGREEMENT NO. 1  
TO  
CONTRACT NO. 2784972**

**This Amendment Agreement No. 1** ("Amendment") between Lewis and Munday, with offices located at 660 Woodward, Suite 2490, Detroit, Michigan 48226 ("Attorney"), and the City of Detroit, a municipal corporation, acting by and through its Finance Department and its Law Department, represented by its Corporation Counsel ("City"), is made to amend Contract No. 2784972 ("Contract") between the Attorney and the City.

**Whereas**, the City has engaged the Attorney to provide certain legal services ("Services") to the City; and

**Whereas**, the City and the Attorney have entered into a Contract reflecting the terms and conditions governing the subject engagement; and

**Whereas**, it is the mutual desire of the parties to amend the Contract to provide increased compensation to cover additional costs and Services.

**Now Therefore**, in consideration of the foregoing, and the benefits to accrue to the parties from this Amendment, the parties agree that this Contract is amended as follows:

**I. Amendment to Article 5- Compensation**

- 1.01 Section 5.01 is amended only to increase the maximum amount of compensation for the complete and proper performance of the Services under this Contract from Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) to an amount not to exceed One Million One Hundred Thousand and 00/00 Dollars (\$1,100,000.00).

**II. Amendment to Exhibit B**

- 2.01 Exhibit B of the Contract is amended by deleting the existing language and by substituting the attached First Amended Exhibit B in its place.

**III. Effect of Amended Terms on The Remaining  
Provisions of The Contract**

- 3.01 With the exception of the provisions of the Contract specifically contained in this Amendment, all other terms, conditions and covenants contained in the Contract shall remain in full force and effect and as set forth in the Contract.



#### **IV. Payment Authorization**

- 4.01 The Finance Director of the City shall not authorize any payment pursuant to this Amendment until the Amendment has been approved by resolution of the Detroit City Council, all appropriate departmental approvals have been obtained and this Amendment has been executed by the Purchasing Director for the City.

\* \* \*

In Witness Whereof, the City and the Attorney, by and through their duly authorized officers and representatives, have executed this Amendment.

Witnesses:

1. Gerald W. Helms  
GERALD W. HELMS
2. Margaret Montgomery  
MARGARET MONTGOMERY

Witnesses:

1. Elizabeth Crawford  
ELIZABETH CRAWFORD
2. Audrey R. Trucks  
Audrey R. Trucks

Witnesses:

1. James Woldbrink  
JAMES WOLDBRINK
2. Michelle Walker  
Michelle Walker

THIS AMENDMENT WAS APPROVED  
BY THE CITY COUNCIL ON:

\_\_\_\_\_

Purchasing Director

Date

CONTRACTOR:

By: Reuben A. Munday  
(Signature)  
Reuben A. Munday  
(Print name)  
Its: Director  
(Title)

Finance Department:

By: Vincent L. H.  
Its: Chief Financial Officer

City of Detroit Law Department:

By: Krystal A. Crittendon  
Krystal A. Crittendon for  
Its: Corporation Counsel

APPROVED BY LAW DEPARTMENT  
PURSUANT TO SECTION 6-406 OF THE  
CHARTER OF THE CITY OF DETROIT:

4-27-07  
Corporation Counsel Date

THIS AMENDMENT IS NOT VALID OR AUTHORIZED UNTIL APPROVED BY  
RESOLUTION OF THE CITY COUNCIL AND SIGNED BY THE PURCHASING DIRECTOR.

## **FIRST AMENDED EXHIBIT B**

### **FEES AND REIMBURSABLE EXPENSES**

#### **I. General**

The Attorney shall be paid for those Services performed pursuant to this Contract, inclusive of all Reimbursable Expenses, an amount not to exceed the sum of One Million One Hundred Thousand and 00/100 Dollars (\$1,100,000.00), in accordance with the terms and conditions of the Contract including, but not limited to Article 5 and Article 6 in particular, and subject to Article 13. The Fee Schedule below states the maximum hourly billable rate the Attorney may charge the City for performance hereof.

#### **II. Fee Schedule**

##### **CLASSIFICATION**

##### **BILLABLE HOURLY RATE**

Senior Partner  
Junior Partner  
Senior Associate  
Associate  
Paralegal/Law Clerk

Overtime pay for Paralegal or Law Clerk services will not be reimbursed without prior approval of the City's Corporation Counsel. The rate shall be mutually agreed upon. Further, the Attorney shall submit a statement of itemized expenditures upon request of the City which shall include, but is not limited to, court/hearing appearances, research activities, and other related expenses for the Attorney's billings under the Contract.

#### **III. Reimbursable Expenses**

(a) The Attorney shall be paid for its Reimbursable Expenses which shall be the actual cost incurred by the Attorney for expenses advanced on behalf of the City in connection with the Services performed by the Attorney.

(b) In addition, reimbursement is allowable for travel and sustenance for travel in excess of fifty (50) miles outside the corporate limits of the City of Detroit.

(c) The following services shall be invoiced at the rates which represent the actual costs of the Attorney: parking, photocopying, necessary local deliveries, toll or long distance telephone charges, transcript costs, postage, express mail services, outside printing and photocopying, filing, notary, expert witness fees, electronic database services and miscellaneous like expenses directly related and necessary for rendering the Services.

(d) Photocopying (in-house) rates shall not exceed \$.20 per page. Outside printing rates shall be ascertained by contacting at least three (3) commercial agencies and selecting the lowest

minimum charge.

(e) Reimbursement will not be made for local FAX charges; long distance FAX charges will be honored only when the transmission is made at the request of the City's Corporation Counsel.

(f) In order to obtain reimbursement for costs or expenses not enumerated herein, the Attorney shall submit to the City's Corporation Counsel a written request for approval of such costs or expenses **prior to incurring them.**

(g) The City will not pay any charges relating to the preparation or processing of invoices by the Attorney.

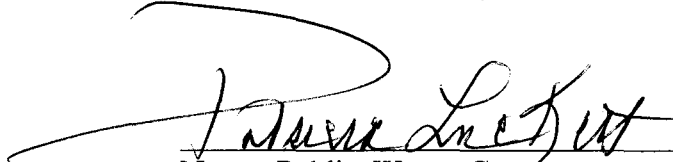
The first amendment is necessary to compensate Attorney for continuing services to perform this engagement.

\* \* \*

**CITY ACKNOWLEDGMENT**

STATE OF MICHIGAN )  
 )SS.  
COUNTY OF WAYNE )

The foregoing instrument was acknowledged before me this 27 day of April  
2009, by Krystal A. Crittendon, Corporation Counsel for the Law Department of the City of  
Detroit, Michigan, on behalf of the City.

  
Notary Public, Wayne County  
State of Michigan  
My commission expires: 5-26-2013

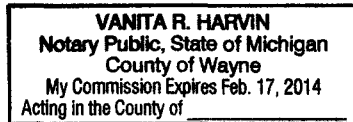
PATRICIA A. LUCKETT  
Notary Public, State of Michigan  
County of Wayne  
My Commission Expires May 26, 2013  
Acting in the County of WAYNE

CITY ACKNOWLEDGMENT

STATE OF MICHIGAN )  
 )SS.  
COUNTY OF WAYNE )

The foregoing instrument was acknowledged before me this 27 day of April  
2009, by Andrew P. Jackson, the Deputy of the Finance  
Department of the City of Detroit, Michigan, on behalf of the City.

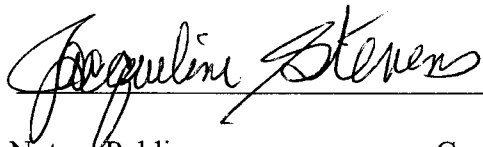
Vanita R. Harvin  
Notary Public, Wayne County  
State of Michigan  
My commission expires: 02/17/2014



**LAW FIRM ACKNOWLEDGMENT**

STATE OF MICHIGAN )  
 )SS.  
COUNTY OF WAYNE )

The foregoing instrument was acknowledged before me this 27 day of April, 2009,  
by REUBEN MUNDAY,  
(name of person who signed the contract)  
the DIRECTOR / SHAREHOLDER,  
(title of person who signed the contract as it appears on the contract)  
of LEWIS & MUNDAY, P.C., on behalf of the Firm,  
(complete name of the law firm)  
a LAW FIRM,  
(identify type of entity)

  
\_\_\_\_\_  
Notary Public, \_\_\_\_\_ County,

State of \_\_\_\_\_

My commission expires: \_\_\_\_\_

JACQUELINE D. STEVENS  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF MACOMB  
MY COMMISSION EXPIRES Oct 3, 2013  
ACTING IN COUNTY OF Wayne

PLEASE NOTE THAT THE PERSON WHO SIGNS THE CONTRACT ON BEHALF OF YOUR ENTITY MUST BE ONE OF THE INDIVIDUALS LISTED BELOW AS A PERSON AUTHORIZED TO EXECUTE CONTRACTS IN THE NAME OF AND ON BEHALF OF THE ENTITY.

RESOLUTION OF CORPORATE AUTHORITY

I, REGINALD DOZIER, Corporate Secretary of  
(name of corporate secretary)  
LEWIS & MUNDAY, P.C., a MICHIGAN  
(complete name of corporation) (State of Incorporation)

PROFIT corporation (the "Corporation"), DO HEREBY CERTIFY that the following is  
(non-profit or for profit)


a true and correct excerpt from the minutes of the meeting of the Board of Directors duly called  
and held on 4-27-09, and that the same is now in full force and effect:  
(date of meeting)

"RESOLVED, that the Chairman, the President, each Vice President, the Treasurer, the Secretary and the Executive Director and each of them, is authorized to execute and deliver, in the name of and on behalf of the Corporation and under its corporate seal or otherwise, any agreement or other instrument or document ("Contract") in connection with any matter or transaction that shall have been duly approved; and the execution and delivery of any Contract by any of the aforementioned officers shall be conclusive evidence of such approval."

FURTHER, I CERTIFY that DAVID BAKER LEWIS is Chairman,  
is President,  
is (are) Vice President(s),  
BLAIR PERSON is Treasurer,  
REGINALD DOZIER is Secretary,  
is Executive Director, and  
HANS MASSAGUOIAN AND RUBEN MUNDAY is DIRECTOR.

FURTHER, I CERTIFY that any of the aforementioned officers or employees of the Company are authorized to execute and commit the Company to the conditions, obligations, stipulations and undertakings contained in the contract (number 2784972) between the City and the above-referenced corporation and that all necessary corporate approvals have been obtained in relationship thereto.

IN WITNESS THEREOF, I have set my hand this 27 day of April, 2009  
CORPORATE SEAL

(if any)  
  
Corporation Secretary



# Attachment III

## EXHIBIT A

### SCOPE OF SERVICES

#### LEWIS AND MUNDAY LETTER

#### ORRICK LETTER

\* \* \*

DAVID BAKER LEWIS <sup>1,2</sup>  
REUBEN A. MUNDAY <sup>1</sup>  
BLAIR A. PERSON <sup>1</sup>  
KAREN KENDRICK BROWN\* <sup>1,2,4</sup>  
HANS J. MASSAQUOI, JR. <sup>1</sup>  
REGINALD G. DOZIER <sup>1</sup>  
BRIAN J. KOTT <sup>1</sup>  
SUSAN D. HOFFMAN \*\* <sup>1,7</sup>  
DARICE E. WEBER <sup>1</sup>  
KATHY HOFFMANN MURPHY <sup>1,6</sup>  
DAVID E. COSTA <sup>1</sup>  
TAMIKA A. FRIMPONG <sup>1</sup>  
RONDA L. TATE <sup>1</sup>  
JAMES C.D. WAHLS <sup>1</sup>  
JANENE MCINTYRE <sup>1</sup>

LAW OFFICES  
**LEWIS & MUNDAY**  
A PROFESSIONAL  
CORPORATION  
2490 FIRST NATIONAL BUILDING  
660 WOODWARD AVENUE  
DETROIT, MICHIGAN 48226  
TELEPHONE (313) 961-2550  
TELECOPIER (313) 961-1270  
WEB SITE: WWW.LEWISMUNDAY.COM

\_\_\_\_\_  
Otis M. Smith  
(1922-1994)

\_\_\_\_\_  
Herbert O. Reid, Sr.  
(1915-1991)

OF COUNSEL

LEROY C. RICHIE <sup>1,3</sup>  
G. ALLEN BASS <sup>1,3,5,8</sup>  
J. TAYLOR TEASDALE <sup>1</sup>  
SAMUEL E. MCCARGO <sup>1</sup>  
JONATHAN D. SAVAGE <sup>1,6,9,10</sup>  
JERRY L. MALONE\* <sup>2,11</sup>

\* RESIDENT IN WASHINGTON, D.C.  
\*\* RESIDENT IN SEATTLE

January 12, 2009

Joseph Harris  
Finance Director  
Coleman A. Young Municipal Center  
9th Floor  
Detroit, Michigan, 48226

Kathleen Leavey  
Corporation Counsel  
First National Building Suite 1650  
660 Woodward  
Detroit, Michigan, 48226

**Re: Standard & Poor's Downgrade of the City of Detroit**

Dear Mr. Harris and Ms. Leavey:

Thank you for asking us to provide legal services to the City of Detroit (the *City*) in connection with events related to the recent downgrade of the bonds of the City and related entities to below investment by Standard & Poor's (the *Downgrade*). The Downgrade raises various issues for the City, not all of which can be foreseen at present. Among those that suggest themselves are the following:

- the possible triggering of a termination event under interest rate swaps (the *Swaps*) entered into in connection with the funding of the City's pension obligations
- concerns that manifest themselves from other City creditors
- securities law compliance with regard to the disclosure of the Downgrade and its possible consequences
- potential constraints on the City's access to the credit market and need for cash-flow borrowings.

At your request, we are engaging Orrick, Herrington & Sutcliffe LLP (*Orrick*) to assist us in the provision of legal services. The provision of services of by Orrick and us will be complementary so that the City will have unified representation. We understand that we will have the primary responsibility for liaising between the legal team and City officials, such as

CELEBRATING 36 YEARS OF SERVICE, 1972-2008

1300 I ST., N.W., SUITE 300 WEST, FRANKLIN SQUARE BUILDING, WASHINGTON, D.C. 20005  
1420 FIFTH AVENUE, SUITE 3150, SEATTLE, WA 98101  
120 N. WASHINGTON SQUARE, SUITE 805, LANSING, MI 48933

ADMITTED IN: 1 MICHIGAN; 2 DISTRICT OF COLUMBIA; 3 NEW YORK; 4 MARYLAND; 5 MASSACHUSETTS;  
6 ILLINOIS; 7 WASHINGTON; 8 CALIFORNIA; 9 FLORIDA; 10 MISSOURI; 11 ARKANSAS

Joseph Harris, Finance Director  
Kathleen Leavey, Corporation Counsel  
January 12, 2009  
Page 2

each of you, the City's financial advisor and other advisors and consultants that the City may employ in respect of the Downgrade.

#### **Scope of Engagement**

The situation is sufficiently fluid that a precise scope of services cannot be provided, but a division of responsibilities can be made. The areas of primary responsibility are not mutually exclusive but rather indicate the law firm that will act as lead in the context of a collaborative approach.

#### **Orrick**

Orrick will have primary responsibility for discussions and meetings with the Swap Counterparties leading to negotiation of confidentiality agreements, standstill/forbearance agreements and restructuring/settlement agreements with the Swap counterparties.

The foregoing is a statement only of the primary responsibilities of Orrick and not a complete statement of the services which they will perform. Reference should be made to the attached engagement letter of Orrick (the ***Orrick Letter***) for a complete statement of their services. The scope of the services to be performed by Orrick, whether as their primary responsibility or otherwise, is set forth in the Orrick Letter, and the services to be performed by them are not enlarged by this letter.

#### **Lewis & Munday**

Our primary responsibilities will fall into three areas.

- Financial Arrangements: agreements to collateralize Swap counterparties, agreements to provide additional revenue sources for Swap counterparties, amendments to indentures and other agreements with respect to City or City related debt, such as Pension Obligations.
- Disclosure: material events notices, disclosure in City financial transactions and public statements.
- Cash Flow Borrowing: Because the City's annual cash flow borrowing is an integral part of the response to the Downgrade and additional financial arrangements are expected to be necessary, we will act as bond counsel.

#### **Undivided**

Also included in the scope of services are advisory services, which by their collaborative nature do not lend themselves to division:

- Provision of advice and strategy for communicating scope and potential solutions to matters arising from the Downgrade and related events;

## LEWIS & MUNDAY

Joseph Harris, Finance Director  
Kathleen Leavey, Corporation Counsel  
January 12, 2009  
Page 3

- Review and evaluation of the City's indentures and agreements with respect to bonds, financing leases and similar forms of financial obligations to determine whether the ratings downgrade triggered any adverse events with respect to those obligations; and
- Advice to the City regarding the steps necessary to resolve issues created with respect to such other financial obligations.

### Fees and Expenses

#### **Obligations Separate**

The City will have a separate obligation to each of Lewis & Munday and Orrick, and neither law firm has a responsibility to the other for the payment of the other's fees and expenses.

The fees and expenses of Orrick are set forth in the Orrick Letter, and reference should be made thereto for the amounts, times and manner of payment.

#### **Fees**

We are to be compensated on the basis of the hourly rates of the participants. The personnel we expect to involve at this time and their hourly rates are:

- David Lewis ..... \$550/hour
- Allen Bass ..... \$500/hour
- Sue Hoffman ..... \$500/hour
- James Wahls ..... \$300/hour

It may be necessary or appropriate to involve other attorneys or firm personnel. The categories of individuals and their respective hourly rates are:

- Name Shareholders ..... \$550/hour
- Other Shareholders and Counsel .... \$500/hour
- Senior Associates ..... \$350/hour
- Associates ..... \$300/hour
- Paralegals ..... \$100/hour

#### **Expenses**

In addition to our fees, we would expect to be reimbursed for all expenses incurred in the course of performing our legal services in connection with this representation. By way of illustration, these customarily include travel costs, administrative assistant overtime, photocopying, deliveries, long distance telephone charges, telecopier charges, filing fees and computer-assisted research.

## LEWIS & MUNDAY

Joseph Harris, Finance Director  
Kathleen Leavey, Corporation Counsel  
January 12, 2009  
Page 4

### **Time of Payment**

Statements for our fees and expenses incurred will be submitted on a monthly basis, and our statements are due and payable 15 days after receipt.

### **Late Payment**

We reserve the right to impose late payment charges on the amount of any statement not paid by the date it is due and payable in accordance with City law.

### **Attorney-Client Relationship**

Upon acceptance of the terms of this engagement, the City will be our client for this matter, and an attorney-client relationship will exist between us.

Neither of the Lewis & Munday nor Orrick shall have an attorney client relationship with the other.

### **Conflicts**

As you are aware, we represent many political subdivisions, companies and individuals. During the time that we are representing the City it is possible that one or more of our present or future clients will have transactions with the City. It is also possible that we may be asked to represent, in an unrelated matter, one or more of the entities. We do not believe such representation, if it occurs, will adversely affect our ability to represent the City as provided in this letter, either because such matters will be sufficiently different so as to make such representations not adverse to our representation of the City, or because the potential for such adversity is remote or minor and outweighed by the consideration that it is unlikely that advice given to the other client will be relevant to any aspect of the representation herein. We will bring to your attention any actual conflict of interest which may arise. Acceptance of this letter will signify the City's consent to our representation of other clients consistent with the circumstances described in this paragraph.

### **Records**

At your request, papers and property furnished by you will be returned promptly upon receipt of payment for outstanding fees and client charges. Our own files, including attorney work product, pertaining to the transaction will be retained by us. For various reasons, including the minimization of unnecessary storage expenses, we reserve the right to dispose of any documents or other materials retained by us after the termination of this engagement.

\* \* \* \* \*

LEWIS & MUNDAY

Joseph Harris, Finance Director  
Kathleen Leavey, Corporation Counsel  
January 12, 2009  
Page 5

If the foregoing terms are acceptable to you, please so indicate by returning the enclosed copy of this engagement letter signed by you, retaining the original for your files. We look forward to working with you.

LEWIS & MUNDAY,  
A PROFESSIONAL CORPORATION

BY: David Baker Lewis  
David Baker Lewis

Accepted this \_\_\_\_ day of January, 2009.

CITY OF DETROIT

By: \_\_\_\_\_  
**Joseph Harris**  
Finance Director

By: \_\_\_\_\_  
**Kathleen Leavey**  
Corporation Counsel



ORRICK, HERRINGTON & SUTCLIFFE LLP  
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WASHINGTON, D.C. 20005-1706

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fax +1-202-339-8500

WWW.ORRICK.COM

January 7, 2009

Darrin L. Glymph  
(202) 339-8401  
dglymph@orrick.com

City of Detroit  
Finance Director  
1210 Coleman A. Young Municipal Center  
Detroit, Michigan 48226  
Attention: Mr. Joseph Harris

Re: Legal Services in Connection with Swap Restructuring

Dear Mr. Harris:

This will confirm our understanding with respect to the engagement by the City of Detroit (the "City") of Orrick, Herrington & Sutcliffe LLP ("Orrick") to provide legal services to the City in connection with the City's recent downgrade by Standard and Poor's Inc. and the potential effect on the City's financial obligations, including its swap agreements entered into with UBS AG, SBS Financial Products Company, LLC and Merrill Lynch Capital Services, Inc. (collectively, the "Swap Counterparties"), with respect to the City's 2006 pension certificates of participation. Initially, we would expect our services to include the following: (i) discussions and meetings with the Swap Counterparties leading to negotiation of confidentiality agreements, standstill/forbearance agreements and restructuring/settlement agreements with the Swap Counterparties and, to the extent required, other parties, including the bond insurers and bond trustees; (ii) assistance with the review of any Material Events Notices prepared by the City or its financial advisors or bond counsel; (iii) providing advice with respect to public statements made with respect to financial matters; (iv) providing advice and strategy for communicating scope and potential solutions to financial crisis to the City Council and the bond rating agencies; (v) participating in the review and evaluation of other outstanding debt to determine whether the ratings downgrade triggered any adverse events with respect to those obligations; (vi) advising the City of steps necessary to resolve issues created with respect to other debt obligations; and (vii) such other services related to the City's financial condition and restructuring as may be requested in writing, including fax (telecopier) or email, by the City from time to time. Obviously, the precise scope of our services will depend on a number of factors, including the course of the negotiations with the Swap Counterparties, the effect of the ratings downgrade on the City's other debt and the reaction of the other affected creditors, actions the City may take in response to the ratings downgrade and any involvement by the State Treasurer or the Governor in response to the City's solvency issues.

We understand that the City would like us to bring the firm's resources to bear on this problem, and to work with the City's finance and legal staff, including the Corporation Counsel, Lewis & Munday, P.C., as the City's bond counsel, Robert W. Baird & Co. Inc., as the City's financial advisor, and the City Council to help address the fiscal issues facing the City. Please note that we will endeavor to utilize the resources of the firm in the most cost efficient and effective manner possible.



O R R I C K

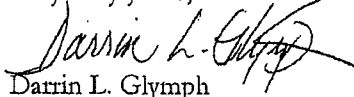
Mr. Joseph Harris  
January 7, 2009  
Page 2

As we have disclosed to you, Orrick currently is representing one or more of the Swap Counterparties on matters unrelated to the City. We are currently seeking any necessary conflict waivers from the Swap Counterparties and we request that you confirm, by execution below, that the City waives any conflict-of-interest or potential conflict-of-interest which may arise from Orrick's existing representation of the Swap Counterparties. Orrick will not represent any Swap Counterparty in a matter that is directly adverse to the City, and will promptly notify you in the event that the interest of the City should become directly adverse to another client in order that proper determination may be made concerning further representation.

This letter will confirm our engagement as special counsel to the City in connection with this matter. Our fees for this work will be based upon a 10% discount off our standard hourly rates in effect at the time services are rendered. The discounted hourly rates of the principal persons who will work on this matter from time to time are attached as Attachment 1. Our fees, however, are subject to adjustment annually and we will notify you ahead of time in case of any such adjustment. We will also charge for our costs and disbursements such as postage, special delivery, telecopies, filing, travel (with respect to travel, based on lowest available refundable coach airfares), publication or other similar costs. Given the nature of this engagement, we cannot predict at this time what the fees and costs will be, but will provide monthly statements of our services and frequent updates of amounts expended, we also will consult with the City on ways to manage the same. Our invoices will be payable upon receipt.

If the foregoing is satisfactory, kindly have this letter acknowledged in the space provided below and return the copy of this letter to me in the enclosed envelope. Thank you for providing us the opportunity to be of service to the City of Detroit. We are honored to have been selected for this assignment and look forward to working with the City and its other advisors toward a successful outcome.

Very truly yours,

  
Darrin L. Glymph

CONSENTED AND AGREED TO:

CITY OF DETROIT

---

Finance Director





ORRICK

Attachment A

Attorney	Discount Billing Rate (2009)
Frankel, Roger	\$785
Knox, John	720
Levinson, Marc	585
McGowen, Lorraine	695
Schneider, Pauline	635
Glymph, Darrin	525
Mathews, Nik	550
Misulic, Tatjana	505
Thomas, Katherine	450
Clark, Charity Rae	420